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3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 SEAN BROOKS SKIRLAW,

7 Plaintiff,

8 v.

9 JOHN FORRESTER,

10 Defendant.

Case No. C08-5398RJB-KLS

ORDER DENYING PLAINTIFFS
MOTION FOR ORDER FOR DISMISSAL
WITHOUT PREJUDICE

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12 This matter has been referred to Magistrate Judge Karen L. Strombom pursuant to 28
13 U.S.C. § 636(b)(1), Local Rules MJR 3 and 4, and Federal Rule of Civil Procedure (‘Fed. R. Civ.
14 P.’) 72. The case is before the Court upon plaintiff’s motion for voluntary dismissal without
15 prejudice pursuant to Fed. R. Civ. P. 41(a)(2). (Dkt. #32). After reviewing plaintiff’s motion,
16 defendant’s response thereto (Dkt. #34) and the balance of the record, the Court finds and
17 ORDERS as follows:

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19 Plaintiff “may dismiss an action without a court order,” either by filing (1) “a notice of
20 dismissal” before defendant “serves either an answer or a motion for summary judgment,” or (2) “a
21 stipulation of dismissal” signed by defendant. Fed. R. Civ. P. 41(a)(1). Otherwise, “an action may
22 be dismissed at . . . plaintiff’s request only by” order of this Court, “on terms that” the Court
23 “considers proper.” Fed. R. Civ. P. 41(a)(2). Given that defendant filed his motion for summary
24 judgment of plaintiff’s amended complaint on May 18, 2009 (Dkt. #31), which occurred prior to
25 plaintiff’s filing of his motion to dismiss on June 4, 2009 (Dkt. #32), and that defendant has not
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1 consented to dismissal of this matter without prejudice, dismissal of that complaint at plaintiff's
2 request may be had only by court order.

3 Plaintiff, however, has given no reason why this matter should be dismissed at this stage
4 of the proceedings without prejudice. It has been nearly a year since he initiated this action, and
5 the deadlines for completing discovery and filing dispositive motions in regard to the amended
6 complaint had both passed prior to the filing of his motion for voluntary dismissal. Given the
7 amount of time and expenditure of resources that have been expended in prosecuting this matter
8 so far, dismissal with prejudice—that is with the possibility of being able to file this same action
9 in the future—is inappropriate at this late stage.

11 Accordingly, plaintiff's motion for an order for voluntary dismissal without prejudice
12 pursuant to Fed. R. Civ. P. 41(a)(2) (Dkt. #32) hereby is DENIED.

13 The clerk is directed to send a copy of this Order to plaintiff.

14 DATED this 17th day of June, 2009.

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19 Karen L. Strombom
20 United States Magistrate Judge
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